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John C Evans
Reising Ethington Barnes Kisselle
Learman & McCulloch PC
P O Box 4390
Troy, MI 48099-9998

EXAMINER

MILLER, JONATHAN R

ART UNIT PAPER NUMBER

3653

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 19

Application Number: 09/541,718
Filing Date: April 03, 2000
Appellant(s): ULRICHSEN ET AL.

Ulrichsen et al
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on January 6, 2003.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 144, 145, 168 – 171 and 174 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(9) Prior Art of Record

European Patent Application 484,221 A2 (Sommer et al.) 06.05.92

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 144, 145, 168-171 and 174 rejected under 35 U.S.C. 102(b). This rejection is set forth in prior Office Action, Paper No. 8 mailed on June 11, 2002..

(11) Response to Argument

Responding to appellants' argument, appellants have alleged that EPO'221 does not disclose scanning of a transverse section of a stream of matter at a detection station. However, the Examiner respectfully disagrees. As shown in Figs. 1 and 2, and discussed on column 7, line 48 to column 8, line 28 (note radiation zone 22 containing detector array 20), EPO'221 does, indeed, disclose scanning of a transverse section of a stream of matter at a detection station. Appellants also have alleged that EPO'221 does not perform for each detection zone in respect of a plurality of the wavelengths simultaneously. Again, the Examiner disagrees. As broadly claimed, EPO'221 inherently does perform such function because if the wavelengths are not simultaneously, there would be gaps in between the wavelengths which is not desired. Re claim 145, the wavelength bands depend upon the physical and chemical properties of the items to be treated (column 7, lines 14-22). Re claim 174, EPO'221 is able to detect metallic materials as well as other non-metallic materials (column 1, lines 36-46); EPO'221 further discloses a receiving means 20 comprising a multiplicity of electromagnetic field sensing devices. Re claim 168, as broadly claimed, the receiving means can be considered an antenna. Re claim 169, an advancing means is a conveyor 17 or 18. Re claim 170, an emitting means 11 inherently has an

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oscillator. Re claim 171, the detection zone 22 comprises two-dimensional simulation (transversely and longitudinally) as shown in Fig. 2.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

jrm

January 28, 2004

Conferees

Don Walsh and Kathy Matecki; conference held 12/8/03

John C Evans
Reising Ethington Barnes Kisselle
Learman & McCulloch PC
P O Box 4390
Troy, MI 48099-9998


DONALD F. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600